

**PT 03-28**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**CRETE REFORMED CHURCH  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 02-PT-0009  
(01-99-0238)  
P.I.N: 15-14-101-001**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Michael Abramovic, Special Assistant Attorney General, on behalf of the Illinois Department Of Revenue (the “Department”).

**SYNOPSIS:** This proceeding presents the limited issues of whether any part of real estate identified by Will County Parcel Index Number 15-14-101-001 (hereinafter referred to as the “subject property”) was: (a) “used exclusively for religious purposes,” as required by 35 ILCS 200/15-40 during the 2001 assessment year; and/or (b) “used as part of a use for which an exemption is provided by this Code,” as required by 35 ILCS 200/15-125 during the 2001 assessment year. The underlying controversy arises as follows:

The Crete Reformed Church (the “applicant”) filed an Application for Property Tax Exemption with the Will County Board of Review (the “Board”) on June 4, 2001. The Board reviewed the application and recommended to the Department that the subject

property be exempt as of “August 5, 2000.”<sup>1</sup>. On December 28, 2001, the Department issued its initial determination in this matter, which denied the requested exemption, in toto, on grounds that the subject property is not in exempt use.

Applicant filed an appeal to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department’s initial determination in this matter be modified to reflect that a total of 18% of the subject property be exempt from 2001 real estate taxes under 35 ILCS 200/15-40 and 35 ILCS 200/15-125.

**FINDINGS OF FACT:**

1. The Department’s jurisdiction over this matter and its position herein are established by the admission of Dept. Group Ex. No. 1.
2. The Department’s position in this matter is that the subject property is not in exempt use. *Id.*
3. The subject property consists of a 6.3093 acre tract of unimproved land located in Crete, IL. *Id.*; Applicant Ex. No. 2.
4. Applicant is an affiliate of the Reformed Church of America, a national association of Protestant churches. Tr. pp. 8-9.
5. Applicant’s main church facility, which was exempted from real estate taxation pursuant to the Department’s determination in Docket No. 94-99-221, is located directly south of the subject property. Dept. Group Ex. No. 1; Administrative Notice; Applicant Ex. Nos. 7, 8; Tr. p. 11.

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1. This appears to be a scrivener’s error on the part of the Board, as the Department’s determination in this matter establishes that the tax year currently in question is 2001.

6. Applicant obtained ownership of the subject property by means of a Trustee's Deed that was recorded in the Will County Recorder's Office on September 26, 2000.<sup>2</sup> Dept. Group Ex. No. 1; Applicant Ex. No. 1.
7. Applicant obtained ownership of the subject property in order to keep the area immediately adjacent to its main facility free from commercial development, and also, because it wished to hold it for future expansion of its main church facility. Tr. pp. 10-11.
8. Applicant did not actually undertake any expansion of its main church facility during 2001.<sup>3</sup> It did, however, use the half-acre of the subject property that was located closest to its main facility as overflow parking for its Sunday services, which were attended by 400 to 500 people on a regular basis. Tr. pp. 16-19.
9. Applicant was able to accommodate between 75 and 100 additional cars by using this portion of the subject property for overflow parking. Tr. pp. 17-18.
10. Applicant used a separate area of the subject property, which measured 73.33 yards x 120 yards, for games and other functions held by its youth group. Tr. pp. 23-25.

**CONCLUSIONS OF LAW:**

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

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2. Neither the copy of the Trustee's deed submitted into the record as Applicant Ex. No. 1 nor any other documentary evidence of record indicate the date on which this deed was actually executed.

3. The uses described in this and all subsequent findings of fact shall be understood to be uses that occurred during the 2001 tax year unless context clearly specifies otherwise.

Pursuant to Constitutional authority, the General Assembly enacted Sections 15-40 and 15-125 of the Property Tax Code, 35 ILCS 200/1-1 *et seq.*, (hereinafter the “Code”), wherein the following are exempted from real estate taxation:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit ...[.]

35 ILCS 200/15-40.

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institutions which meets the qualifications for exemption, are exempt.

35 ILCS 200/15-125.

The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

Like all statutes exempting real estate from taxation, Sections 15-40 and 125 of the Property Tax Code are to be strictly construed so that all factual and legal inferences favor taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1<sup>st</sup> Dist. 1987).

Consequently, any doubts or debatable questions as to whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

Where real estate is used for multiple purposes, and can be divided according to specifically identifiable areas of exempt and non-exempt use, it is proper to exempt those parts that are in actual, exempt use and subject the remainder to taxation. Illinois Institute of Technology v. Skinner, 49 Ill. 2d 59, 64 (1971).

This applicant clearly intended to use the entire 6.3093 acre tract in question for at least one exempt purpose, future expansion, throughout 2001. Nonetheless, applicant's actual use, and not its intended use, of the subject is determinative for present purposes. Skil Corporation v. Korzen, 32 Ill.2d 249 (1965); Comprehensive Training and Development Corporation v. County of Jackson, 261 Ill. App.3d 37 (5th Dist. 1994). Thus, while applicant can not receive a property tax exemption for the entire tract as a whole, it can receive an exemption for those areas of the tract that it actually used for exempt purposes. Illinois Institute of Technology v. Skinner, *supra*.

One such area is the half acre that applicant used as overflow parking for its Sunday services throughout 2001. Parking areas can be exempted from real estate taxation under 35 ILCS 200/15-125 if they are: (1) owned by a school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption set forth in the applicable section(s) of the Code; (2) not leased or otherwise used with a view to profit; and, (3) used as part of a use for which an exemption is provided in the Code. 35 ILCS 200/15-125; Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986).

The ownership and non-profit leasing requirements are presently not in dispute. Thus, the only issue with respect to the half-acre currently in question is whether applicant actually used this portion of the tract “in connection” with any of the “religious” functions taking place at its adjacent main church facility. Applicant clearly satisfied this requirement by using this half-acre, or 8% of the entire tract as a whole,<sup>4</sup> as overflow parking for its weekly Sunday services. As such, this 8% of the subject property should be exempted from 2001 real estate taxes under 35 ILCS 200/15-125.

Concerning the 73.33 yard x 120 yard area that applicant used for youth group activities during 2001, it is first noted that this area can qualify for exemption under 35 ILCS 200/15-40 if it is: (1) capable of being identified through some legitimate unit of measurement (Illinois Institute of Technology v. Skinner, *supra*); and, (2) “reasonably necessary” to facilitate one or more specifically identifiable exempt uses. Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2<sup>nd</sup> Dist. 1991)).

I take administrative notice that the International Association of Assessing Officers (“IAAO”), in its manual Property Assessment Valuation, prescribes that “acres may be calculated by dividing square footage by 43,560 ...[.]” Property Assessment Valuation, International Association of Assessing Officers, 1977 edition, p. 86. Thus, one can employ the following computations to convert the given dimensions of 73.33 yards x 120 yards into a specifically identifiable percentage of the subject property:

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4. .5 acre/6.3093 acres = 0.0792 (rounded) or 8%.

Factor	Computations
1. Total square yardage	$  \begin{array}{r}  73.33 \text{ yards.} \\  \times 120.00 \text{ yards} \\  \hline  8,799.60 \text{ sq. yards}  \end{array}  $
2. Convert total square yards to total square feet Using standard conversion factor of 1 yard = 3 feet	$  \begin{array}{r}  8,799.60 \text{ sq. yards.} \\  \times 3.00 \\  \hline  26,398.80 \text{ sq. ft.}  \end{array}  $
3. Convert total square feet into acres according to the IAAO formula	$  \begin{array}{l}  26,398.80 \text{ sq. ft.} / 43,560 = 0.6060 \\  \text{(rounded 4 places past the decimal point)} \\  \text{or .60 of an acre}  \end{array}  $
4. Compute acreage as a percentage of the tract as a whole	$  \begin{array}{l}  .60 \text{ acre} / 6.3093 \text{ acres} = 0.0951 \text{ acre} \\  \text{(rounded four places past the decimal)} \\  \text{or 10\% of the tract as a whole}  \end{array}  $

Based on the above, I conclude that the only parts of the subject property that qualify for exemption from 2001 real estate taxes under 35 ILCS 200/15-40 and/or 15-125 are: (1) the 8% of said property that applicant used for overflow parking during that tax year; and, (b) the 10% of said property which applicant used for youth group activities that were “reasonably necessary” to facilitate the other “religious” activities taking place at its tax-exempt main church facility all through 2001. Therefore, the Department’s initial determination in this matter with respect to this 18% of the subject property should be reversed. However, the Department’s initial determination concerning the remaining 82% of said property should be affirmed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that:

- A. 8% of real estate identified by Will County Parcel Index Number 15-14-101-001 be exempt from 2001 real estate taxes under 35 **ILCS** 200/15-125; and,
- B. An additional 10% of said real estate be exempt from 2001 real estate taxes under 35 **ILCS** 200/15-40;
- C. The remaining 82% of said real estate not be exempt from 2001 real estate taxes.

Date: 10/24/2003

Alan I. Marcus  
Administrative Law Judge